



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

# DRAFT

Date:	01/17/13	Bill No:	<a href="#">Assembly Bill 143</a>
Tax Program:	Sales & Use Tax	Author:	Holden
Sponsor:	Author	Section:	RTC 6412
Related Bills:		Effective:	Immediately upon enactment

## BILL SUMMARY

This bill exempts U.S. Armed Forces members and their spouses from use tax on purchases of tangible personal property. The exemption applies to purchases of tangible personal property made outside California prior to the report date on official transfer orders transferring him or her to this state. This exemption specifically excludes vehicles, vessels and aircraft.

## ANALYSIS

### CURRENT LAW

Existing California law<sup>1</sup> imposes a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The use tax is imposed at the same rate as the sales tax. Purchasers are liable for the use tax unless they paid the tax to the state, or they have a receipt proving that they paid the tax to a retailer registered to collect the California use tax. Retailers engaged in business in California and/or registered to collect the California use tax must collect the use tax from the purchaser at the time of purchase and remit the tax to the state.

When a California consumer or business purchases tangible items for their own use from an out-of-state retailer that is not registered with the Board of Equalization (BOE) to collect the California use tax the purchaser must remit the use tax to the BOE. Generally, purchasers must remit the use tax to the Board of Equalization (BOE) on or before the last day of the month following the quarterly period in which they made the purchase. As an alternative to reporting the use tax directly to the BOE, existing law allows purchasers to report use tax on their state personal income tax returns or their state corporation franchise or income tax returns.

California law regards property purchased outside of California as purchased for use in this state if the first functional use of the property is in California. When property is first functionally used outside California, existing California law nevertheless presumes that it is purchased for use in this state if it is brought into California within 90 days of purchase. An exclusion exists for property used or stored outside California one-half or more of the time during the six-month period immediately following its entry into this state.

Revenue and Taxation Code Section 6406 allows a credit against, but not exceeding, the use tax to the extent that the person has paid a retail sales or use tax on the property in another state, political subdivision thereof, or the District of Columbia prior to the property's storage, use or other consumption in California.

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<sup>1</sup> Chapter 3 (commencing with Section 6201) of Part 1 of Division 2 of the Revenue and Taxation Code

**PROPOSED LAW**

This bill adds Revenue and Taxation Code Section 6412 to the Sales and Use Tax Law to exempt from use tax tangible personal property purchased by active duty members of the United States Armed Forces or their spouses if:

1. they have received official California transfer orders
2. they purchased the property when they were outside the state and prior to the report date on the official orders.

The proposed exemption specifically excludes vehicles, vessels, and aircraft.

As a tax levy, this bill would go into immediate effect. However, the provisions will become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date.

**COMMENTS**

1. **Sponsor and Purpose.** The author sponsored this bill to relieve active duty military service members of unexpected use tax they may incur when the military requires them to relocate to serve our country.
2. **Vehicles.** Currently, active duty armed services members need not pay the use tax on vehicle purchases when (1) the service member purchases the vehicle outside California, and (2) they enter into the vehicle purchase contract prior to the official transfer orders to California.
3. **Administration.** BOE staff does not anticipate any administrative complications from this measure.

**COST ESTIMATE**

The BOE administrative costs associated with this law change would be insignificant.

**REVENUE ESTIMATE**

The revenue impact associated with this proposal would be insignificant.

Analysis prepared by:	Larry Bergkamp	916-322-7281	02/21/13
Revenue estimate by:	Bill Benson	916-445-0840	
Contact:	Michele Pielsticker	916-322-2376	
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*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.*